



U. S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 20 1999

John H. White, Jr., Esq.  
City Attorney  
P.O. Box 667  
McComb, Mississippi 39649-0667

Dear Mr. White:

This refers to your request that the Attorney General reconsider and withdraw the June 28, 1999, objection interposed under Section 5 of the Voting Rights Act, 42 U.S.C. 1973c, to the use of the American Legion Hut as the designated polling place for Voting Precinct 2A for the City of McComb in Pike County, Mississippi. We received your request on July 20, 1999; supplemental information was received on August 2, 1999.

This also refers to your submission under Section 5 of the Voting Rights Act of the creation of two additional voting precincts (revised Voting Precinct 2A and Voting Precinct 2C) and the polling place location designated for Voting Precinct 2C. We received your submission on July 20, 1999; supplemental information was received on August 2, 1999.

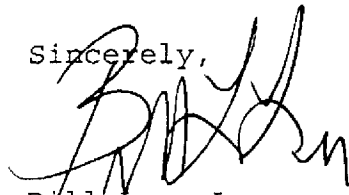
On June 28, 1999, we interposed an objection under Section 5 to the use of the American Legion Hut as a polling place in District 2 for voters in proposed Voting Precinct 2A, as then configured. We were concerned about the impact of the change on minority voters in the proposed precinct who were separated from the polling place by a railroad track and, without the benefit of public transportation, would have had a more difficult time getting to their polling place location. The city now proposes to include these minority voters in proposed Voting Precinct 2C, rather than Voting Precinct 2A, and to locate the polling place for Voting Precinct 2C on the east side of the railroad tracks within walking distance of their residences (Community Parks Apartments). Consequently, the configuration now proposed for

Voting Precinct 2A will include only those District 2 voters who live west of the railroad tracks and north of Voting Precinct 2B.

The Attorney General does not interpose any objection to the creation of revised Voting Precinct 2A and Voting Precinct 2C, and the polling place designated for Voting Precinct 2C. In addition, pursuant to the Procedures for the Administration of Section 5, 28 C.F.R. 51.48(b), the objection interposed to the use of the American Legion Hut as a polling place is hereby withdrawn because the polling place will now serve only those voters who reside in revised Voting Precinct 2A. We note, however, that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin enforcement of the changes. See 28 C.F.R. 51.41.

Furthermore, we note that the configuration originally proposed for Voting Precinct 2A to which we made no determination in our June 28, 1999, letter, has been superceded by our preclearance above of a revised Voting Precinct 2A. Accordingly, no determination by the Attorney General is required concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Lann Lee", written over a horizontal line.

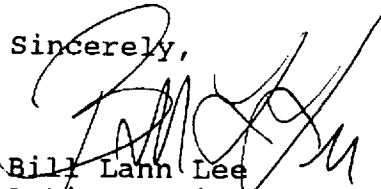
Bill Lann Lee  
Acting Assistant  
Attorney General  
Civil Rights Division

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed change neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. See 28 C.F.R. 51.44. In addition, you may request that the Attorney General reconsider the objection. See 28 C.F.R. 51.45. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the use of the American Legion Hut as the polling place location for District 2 voters continues to be legally unenforceable. Clark v. Roemer, 500 U.S. 646 (1991); 28 C.F.R. 51.10.

With regard to the creation of Voting Precinct 2A, the Attorney General will make no determination to this change at this time because it is directly related to the objected-to American Legion Hut polling place location designated therefor. See 28 C.F.R. 51.22(b) and 51.35.

Your letter of June 25, 1999, acknowledges the difficulty that many of the minority persons who now reside in District 2, but live east of the railroad tracks will have getting to the American Legion Hut to vote. Furthermore, you indicate your willingness to bring this situation to the city's attention in the near future and to try to find an alternate voting location for the affected voters. We look forward to hearing from the City of McComb regarding this matter to enable us to meet our responsibility to enforce the Voting Rights Act. If you have any questions, you should call Zita Johnson-Betts (202-307-3718), Deputy Chief of the Voting Section.

Sincerely,

  
Bill Lann Lee  
Acting Assistant  
Attorney General  
Civil Rights Division